

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MANUEL LAMPON-PAZ,

Plaintiff,

v.

DEPARTMENT OF JUSTICE et al.,

Defendants.

Civ. No. 16-9071 (KM) (JBC)

OPINION and ORDER

KEVIN McNULTY, U.S.D.J.:

The *pro se* plaintiff, Manuel Lampon-Paz, originally brought this action against the United States Department of Justice and certain unknown defendants. (DE 1) A summons issued and proof of service was filed. (DE 8)

Multiple filings of proposed amended complaints followed. Ultimately, the plaintiff was granted leave to amend by letter order of Magistrate Judge Clark, dated August 9, 2018. Judge Clark directed the plaintiff to file and serve his amended complaint within 14 days. (DE 104) An Amended Complaint, in original and redacted form, was filed on August 14, 2018. (DE 106, 107) The Amended Complaint names additional defendants, including the State of New Jersey. As proof of service on the State, the plaintiff filed a copy of the original summons (DE6), which names the U.S. Department of Justice, together with an unsigned affidavit saying it was “served by U.S. Mail.” (DE 109)

Plaintiff then moved for the filing of a default and a default judgment against the State of New Jersey. (DE 116, 117, 118) By letter order filed October 18, 2018, Magistrate Judge Clark denied that motion because there was no adequate proof of service of the State of New Jersey. (DE 121) The plaintiff simultaneously withdrew the motion “if the clerk’s office is going to approve my request for default judgement against the defendants, the State of New Jersey.” (DE 122)

The same day, October 18, 2018, the plaintiff filed a “Request for Default Judgement by the Court” (DE 124) and “Request for Court Appearance” (DE 123). Whether this is considered an appeal from Judge Clark’s order (DE 121) or a fresh motion, I will deny it without further briefing for the reasons stated by Judge Clark.

As to the State of New Jersey (as opposed to the other defendant(s)), the plaintiff has not filled out a USMS form 285 or obtained issuance of a summons until recently. A summons issued on October 17, 2018. (DE 120) Because that was just a few days ago, and there is no proof of service, the State obviously cannot be in default. *See Fed. R. Civ. P. 12(a)(1)* (deadline for responsive pleading is 21 days after service).

Also pending is a motion for reconsideration of my denial of an injunction. (DE 95) The injunction to which plaintiff refers is not specified. I have denied multiple prior requests for injunctions by opinion and order. (*See* DE 64, 65, 90.) The most recent, filed on March 27, 2018, may be the one that is meant. (DE 90) The motion for reconsideration was filed some 3 ½ months later, on July 5, 2018. It is based on “new overt policies of zero-tolerance on immigration,” and seeks assurance that the plaintiff and another will not face criminal charges while this matter is litigated. (DE 95) Such general policy disagreements, unaccompanied by any particular threatened official action, will not support an injunction; a threat of immediate irreparable harm is required. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 21 (2008). Nor does the motion, which is not timely, point to matters that were not or could not have been presented in the original motion. *See D.N.J. Loc. Civ. R. 7.1(i)* (motion for reconsideration to be filed within 14 days after entry of underlying order); *Damiano v. Sony Music Entm’t, Inc.*, 975 F. Supp. 623, 636 (D.N.J. 1997) (evidence or arguments that were available at the time of the original decision will not support a motion for reconsideration). The motion for reconsideration is therefore denied.

ORDER

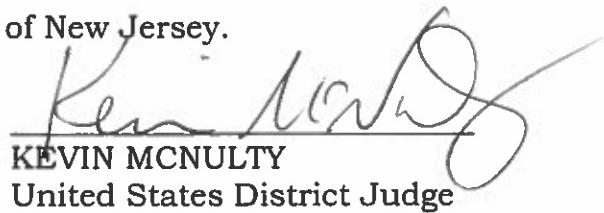
For the reasons set forth above,

IT IS this 22d day of October, 2018

ORDERED that the plaintiff's motion for entry of default (DE) is DENIED; and it is further

ORDERED that the plaintiff's motion for reconsideration of denial of an injunction (DE 95) is DENIED; and it is further

ORDERED that, the plaintiff having been previously granted *in forma pauperis* status, the U.S. Marshals shall serve the Amended Complaint (DE 106) and Summons (DE 120) on the State of New Jersey.


KEVIN MCNULTY
United States District Judge